

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

HEATH RODRIGUEZ,	)	
	)	
Plaintiff,	)	
v.	)	Civil Action No. 05-350 Erie
	)	
PHYSICIAN ASSISTANT	)	
TAMMY MALLORY, et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM ORDER**

\_\_\_\_\_Plaintiff's civil rights complaint was received by the Clerk of Court on November 22, 2005, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The magistrate judge's report and recommendation, filed on January 9, 2007, recommended that the Defendants' motion [Doc. # 12] to dismiss be granted. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail at SCI Albion, where he is incarcerated, and on the Defendants. No objections were filed. After de novo review of the complaint and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 30<sup>th</sup> day of January, 2007,

IT IS HEREBY ORDERED that the Defendants' motion [Doc. # 12] to dismiss is GRANTED and the complaint is DISMISSED.

The report and recommendation of Magistrate Judge Baxter, dated January 9, 2007, is adopted as the opinion of this Court.

s/ SEAN J. McLAUGHLIN

Sean J. McLaughlin  
United States District Judge

cc: all parties of record  
U.S. Magistrate Judge Baxter